

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

(1) BILLY D. “RUSTY” RHOADES III, an)
individual;)
(2) MEGAN L. SIMPSON, an individual;)
and)
(3) MICHAEL S. HARRELL, an individual,)

Plaintiffs,

v.

(1) THE STATE OF OKLAHOMA, *ex rel.*)
GOVERNOR KEVIN STITT;)
(2) THE STATE OF OKLAHOMA, *ex rel.*)
THE DEPARTMENT OF PUBLIC SAFETY;)
(3) KEVIN STITT, an individual;)
(4) CHIP KEATING, an individual;)
(5) JASON NELSON, an individual; and)
(6) JOE CLARO, an individual,)

Defendants.

Case No. CIV-20-761-R

DEFENDANTS’ MOTION FOR EXPEDITED CONSIDERATION

Pursuant to LCvR 7.1, Defendants Chip Keating (“Keating”), Jason Nelson (“Nelson”), and Kevin Stitt (“Governor Stitt”) (collectively, “Defendants”) respectfully request expedited consideration of their contemporaneously-filed Request for Status Conference and/or Motion to Strike Plaintiffs’ Witness and Exhibit Lists (the “Motion”). [ECF 65]. In support thereof, Defendants submit the following:

1. On January 17, 2023, Plaintiffs filed their Final Witness List and Final Exhibit List. [ECFs 57–58].

2. Plaintiffs’ Witness and Exhibit Lists identify seventy-three (73) witnesses and list *every page* of produced discovery (totaling thousands) by all parties and non-

parties. *Id.* Dozens of witnesses have never previously been identified by Plaintiffs at any point in this litigation.

3. The current discovery deadline is set for March 3, 2023, pursuant to this Court's Order on November 17, 2022. [ECF 46].

4. Defendants are concerned about the scope and overbreadth of Plaintiffs' Lists for the reasons stated in their Motion. [ECF 65].

5. Given the impending deadlines and time constraints, Defendants' request expedited consideration of its Motion.

6. Absent an expedited ruling on the Motion, Defendants will be forced to scramble and depose as many witnesses as possible with the remaining three weeks of discovery—a challenge that would likely not allow every one of Plaintiffs' newly-identified witnesses to be deposed. Additionally, Defendants will have to review every single page of produced discovery to speculate about which exhibits Plaintiffs intend to use at trial. This will result in unfair prejudice and undue burden and expense to Defendants simply because Plaintiffs failed to comply with the Federal Rules of Civil Procedure and failed to meaningfully identify actual trial witnesses.

RELIEF REQUESTED

Defendants respectfully request that the Court expedite consideration of Defendant's Motion [ECF 65] and set a status conference as soon as possible. Defendants further request that the Court order Plaintiffs to file an expedited response to Defendants' Motion pursuant to LCvR 7.1(g), and issue an expedited ruling on the matter.

Dated this February 13, 2023,

Respectfully submitted,

s/ Michael A. Duncan

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